IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9625 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

PRATAPJI MOTIJI BHAGALIA

Appearance:

MR KM PARIKH for Petitioner

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 06/12/2000

ORAL JUDGEMENT

Rule. Mr. G.K. Rathod waives service of rule for the respondent. With the consent of parties, the matter is taken up for final hearing today.

In Reference (LCP) No.149 of 1998, the Labour

Court, Palanpur passed an Award dated 3.5.1999, by which the said Reference was partly allowed. The S.T. Corporation was directed to reinstate the concerned workman on his original post and while exercising powers under Section 11A of the I.D. Act, the respondent was subjected to withholding of two increments with future effect. No order of back wages was passed by the Labour Court in favour of the respondent-workman. At the time of hearing of this Special Civil Application, Mr.Parikh for the S.T. Corporation argued that in the facts and circumstances of the case, withholding of two increments with future effect is not adequate and that the said penalty order is required to be substituted suitably. However, the Labour Court has found in paragraph 8 of its order that the order of removal was on excessive side. Considering his past record, it was found, while exercising powers under Section 11A of the I.D. Act, that in the past the workman had not committed similar type of misconduct and, therefore, the aforesaid order was passed. However, looking to the facts and circumstances of the case, I agree with the contention of Mr.Parikh that there should be some deterrent effect on the workman so that he may not repeat the said type of misconduct. Looking to the facts and circumstances of the case, therefore, the penalty of withholding of two increments is substituted by ordering withholding of three increments with future effect so that there may have some deterrent effect also on the employee concerned. I accordingly order withholding of three increments with future effect instead of the penalty of withholding of two increments with future effect awarded by the Labour Court.

Petition is partly allowed by modifying the order of the Labour Court to the aforesaid extent. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

6th December, 2000 (P.B. Majmudar, J.)

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(apj)